



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Department of Agriculture  
Austin, Texas

Attention: Mr. Charles E. Baughman

Opinion Request No. 0-2131

Re: Can Divisions, other than the  
Weights and Measures Division,  
of the Department of Agriculture,  
purchase cars from the regular  
traveling expense appropriation,  
or is it mandatory that all purchases  
of new cars for any division other than  
special fund lump sum appropriations,  
be from the appropriation of \$4,000.00  
set out.

Dear Sir:

Your request for an opinion upon the above stated question has been received and considered by this department. To assure a full and accurate presentation of the problem, we quote at length from your letter as follows:

"Senate Bill No. 427, Regular Session of the 45th Legislature carries appropriation to this Department which reads in part as follows:

Traveling expense for  
all divisions \$30,000.00

Equipment for Weights  
and Measures and purchase  
of new cars \$ 4,000.00

"Prior to the current appropriations, this Department, with the exception of the Weights and Measures Division, purchased cars from the Regular Traveling expense appropriation. The general rider attached to Senate Bill No. 427 provides in part as follows:

'(b) The appropriations herein provided are to be construed as the maximum sums to be appropriated to and for the several purposes named herein, and the amounts are intended to cover and shall cover the entire cost of the respective items and the same shall not be supplemented from any other source; and, except as otherwise provided, no other expenditures shall be made, nor shall any other obligations be incurred by any department of this State, provided however that nothing herein shall prevent any department head from paying less than the maximum amount set forth for any salaried positions.'

"Please advise if the Divisions of this Department, other than Weights and Measures Division, can purchase cars from the regular traveling expense appropriation or is it mandatory that all purchases of new cars for any division, other than Special Fund lump sum appropriations, be from the appropriation of Four Thousand (\$4,000.00) Dollars as set out above."

6 Corpus Juris Secundum, at page 123, gives the following definition of the term "appropriation":

"The word implies use, and has been defined as meaning act of setting apart or assigning to a particular use or person, in exclusion of all others; act of turning, setting aside, taking possession of, or applying to a particular use; application to a special use or purpose; setting apart formally or officially for a special use or purpose. . . . Used in connection with public funds, the phrase has been held to imply a legislative intent and act and a specific purpose for which the appropriation was made, a specific authority to spend, ownership, and the existence of funds applicable to the designated purpose, either a general fund or a specific designated fund in esse or for which provision has been made."

Thus, we see that the very definition of the term "appropriation" involves throughout an idea of a fund set aside for specific purpose or use. Following up this idea, we find that it is a well established rule that public moneys may not be diverted from that specific purpose for which they were appropriated. See 6 Corpus Juris Secundum, page 123, 4 Corpus

Juris 1640, 25 Ruling Case Law 396, 34 Tex. Jurisprudence, 314.

Further, in the case before us, it is plain and obvious that the Legislature did not intend the traveling expense fund to be used for the purchase of automobiles because the traveling expense fund is set out in Item 3 with no mention of automobiles wherein in the very next Item (No. 4) specific provision is made for the purchase of new cars by said department.

Therefore, we conclude with our opinion, and you are respectfully advised, that, the \$30,000 travel expense appropriated item may not be used for the purchase of automobiles. The wording of this particular section of the Appropriation Bill would indicate that only that fund of \$4,000.00 as set up by Section 4 would be available for such a purpose.

Trusting that this satisfactorily answers your questions, we remain

Yours very truly

ATTORNEY GENERAL OF TEXAS

	(Signed)
By	Wm. J. Fanning Assistant
By	(Signed) Grundy Williams

GW:ew

APPROVED APR 18, 1940

GERALD C. MANN  
ATTORNEY GENERAL OF TEXAS

APPROVED  
OPINION  
COMMITTEE  
BY E. W. E.  
CHAIRMAN